

Melissa Newel (CA 148563)
NEWEL LAW
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Attorney for Plaintiff
MICHELLE YVETTE BENAVIDEZ

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

MICHELLE YVETTE BENAVIDEZ,

Plaintiff,

v.

KILOLO KIJAKAZI,
ACTING COMMISSIONER OF
SOCIAL SECURITY,

Defendant.

No. 1:23-CV-00773 (BAM)

**STIPULATION AND ~~[PROPOSED]~~
ORDER FOR AWARD AND PAYMENT
OF ATTORNEYS FEES PURSUANT TO
THE EQUAL ACCESS TO JUSTICE ACT
(28 U.S.C. §2412(d))**

1 IT IS HEREBY STIPULATED by and between the parties, through their undersigned
2 attorneys, subject to the approval of the Court, that Michelle Yvette Benavidez (“Plaintiff”) be
3 awarded attorney fees under the Equal Access to Justice Act (“EAJA”), 28 U.S.C. §2412 (d), in
4 the amount of five thousand nine hundred and sixty dollars and twenty-five cents (\$5,960.25).
5 This represents compensation for legal services rendered on behalf of Plaintiff by counsel in
6 connection with the above-referenced civil action.

7 After the Court issues an Order for EAJA fees to Plaintiff, the government will consider
8 the matter of Plaintiff’s assignment of EAJA fees to Plaintiff’s attorney. Pursuant to *Astrue v.*
9 *Ratliff*, 560 U.S. 586, 598 (2010), the ability to honor the assignment will depend on whether the
10 attorney fees are subject to any offset allowed under the United States Department of the
11 Treasury’s Offset Program. After the Order for EAJA fees is entered, the government will
12 determine whether they are subject to any offset.

13 Fees shall be made payable to Plaintiff, but if the Department of the Treasury determines
14 that Plaintiff does not owe a federal debt subject to offset, then the government shall cause the
15 payment of fees approved to be made payable to Melissa Newel or Newel Law (collectively
16 “Plaintiff’s counsel”), pursuant to the assignment executed by Plaintiff. Any and all payments
17 made shall be delivered to Plaintiff’s counsel.

18 This stipulation constitutes a compromise settlement of Plaintiff’s request for EAJA
19 attorney fees and does not constitute an admission of liability on the part of Defendant under
20 EAJA. Payment of the agreed amount shall constitute a complete release from, and bar to, any
21 and all claims that Plaintiff and/or Plaintiff’s counsel may have relating to EAJA attorney fees
22 and expenses in connection with this action.

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This award is without prejudice to the rights of Plaintiff's counsel to seek Social Security Act attorney fees under 42 U.S.C. §406(b), subject to the savings clause provisions of the EAJA.

Respectfully submitted,

Dated: December 7, 2023

NEWEL LAW

By: Melissa Newel
Melissa Newel
Attorney for Plaintiff
MICHELLE YEVETTE BENAVIDEZ

Dated: December 7, 2023

PHILLIP A. TALBERT
United States Attorney
MATHEW W. PILE
Associate General Counsel
Social Security Administration

By: Marcelo Illarmo*
MARCELO ILLARMO
(*Authorized by email dated 12/05/2023)
Special Assistant U.S. Attorney
Attorneys for Defendant

ORDER

IT IS HEREBY ORDERED that, pursuant to the Equal Access to Justice Act, 28 U.S.C. §2412(d), attorney fees in the amount of **five thousand nine hundred sixty dollars and twenty-five cents (\$5,960.25)** be awarded subject to the terms of the Stipulation.

IT IS SO ORDERED.

Dated: December 8, 2023

/s/ Barbara A. McAuliffe
UNITED STATES MAGISTRATE JUDGE